

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6523 of 1996

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SABARKANTHA JILLA PRATHMIK SHIKSHAK SANGH

Versus

DIST PRIMARY EDUCATION OFFICER

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Appearance:

MR KB PUJARA for Petitioner

M/S THAKKAR ASSOC. for Respondent No. 1

MR DA BAMBHANIA for Respondent No. 4

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 23/10/96

ORAL JUDGEMENT

Rule. Learned advocate Ms. Pahwa waives service of Rule on behalf of respondent No.1, 3 and 4. Mr. D.A.Bambhania, learned Addl. GP waives service of Rule on behalf of respondent No. 2. Heard the learned advocates for the parties. On the facts and in the circumstances of the case, the petition is taken up for final hearing to

day.

2. The petitioner is an association of Primary Teachers serving under the respondent No.1. The respondent No.1, under the order dated 14th August, 1996, transferred as many as 656 primary teachers within the District. It is these orders of transfer which have caused agitation amongst the primary teachers-members of the petitioner association. It is the case of the petitioner that the orders of transfer have been made in utter disregard of the instructions issued by the Government in this behalf. Learned advocate Ms. Pahwa has submitted that the impugned orders of transfer have been made in accordance with the guidelines issued by respondent NO.2. However, if there is any error committed in making such orders, same will be examined and rectified by respondent NO.1. In the circumstances, ends of justice will be met with if the following directions are issued :

3. The primary teachers who are transferred under order dated 14th August, 1996 and are aggrieved by the same shall make a representation to respondent No.1 for reconsideration of his/her transfer within the period of two weeks from to day, if not made so far. The representation made by the primary teachers concerned as aforesaid shall be considered by respondent NO.1 and take suitable decision thereon keeping in view the instructions issued by respondent No. 2 in this behalf. The question whether such primary teacher has actually served at the original place of posting or not shall also have to be decided by respondent No. 1 and if such teacher is found to have actually served, he/she shall be entitled for salary. The decision taken by respondent No.1 shall be communicated to the teacher concerned. The impugned order of transfer shall remain stayed till the representation made by the teacher concerned is decided and till the expiry of seven days after the communication of the decision of respondent No.1. This order is made without prejudice to the rights and contentions of the parties to the present petition. Petition is allowed accordingly. Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

23.10.1996 [Ms.R.M.Doshit,J.]

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